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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Reporters Without Borders International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The independence of the judiciary is crucial to ensure free access to information

Among all the challenges that news providers are facing nowadays, protection from abuse of power by the State is undoubtedly among the most troublesome. In many countries, questioning the activities of high level officials or powerful personalities can be very risky for those who are seeking to defend public interest.
Journalists, bloggers and whistleblowers trying to reveal frauds from people in power are very often threatened, harassed or physically attacked, simply for publishing proven facts.

In states where due process is fully respected, the judiciary is generally a last resort for the protection of newsproviders facing threats. Unfortunately, experience has shown that law officials and tribunals are much too frequently implicated in the actions of the States' mechanisms of repression. They become the problem rather than the solution: judges and attorneys misuse and abuse their power, ignoring their obligation to act with independence and integrity by becoming the hidden long arm of a state that uses them to silence dissident voices and ensure the impunity of those who violate the right to know and the right to inform. Their target is no longer the criminal but the messenger.
Wherever freedom of expressions is fragile or endangered, it is therefore crucial to monitor and protect the integrity of judiciary system to ensure that newsproviders can safely play their role, secure in the knowledge that there are guarantees to protect them through fair trials and due process.

As illustrated by the following few examples, no region is immune of problems.

- In Bahrain, on 26th march 2014, the photo reporter **Ahmed Humaidan** has been sentenced to 10 years imprisonment. He is accused of having taken part in the attack of a police station in April 2012, even though he was not present when these events occurred. Repeatedly harassed for reporting exactions committed by security forces, Ahmed Humaidan seems to be another victim of a judicial decision specifically aimed at silencing an inconvenient witness.

- In Bolivia, on 22th April 2014, general attorney charged **Ricardo Aguilar** and **Claudia Benavente, both journalists, for publishing information allegedly protected by secrets of state. They have been accused of spying and requested to reveal their sources, even though Bolivian press law forbids such demands. Although national security matters are always very sensible topics. As in many other countries, national security is used by a Government to deter media professional from reporting on certain issues despite their public interest value.**

- In Kazakhstan, a judicial procedure aiming at shutting down the opposition newspaper **Pravdivaïa Gazeta** has been initiated on 12 February 2014. Referring to three sentences pronounced against this media in the past, an Almaty district's attorney requested that it ceases its activities for good, this in spite of the fact that these previous judicial decisions appear to be parodies of justice, violating the universal right to a fair trial. The highly disproportionate punishments imposed by Kazakh tribunals to Pravdivaïa Gazeta raise serious concerns about collusion between the judiciary and the government and to silence a dissident voice.

- In Swaziland, journalists **Bheki Makhubu, journalist** and **Thulani Maseko, are both detained since 18th march 2014 for having published two articles questioning the independence and fairness of the justice institutions of their country, as well as the integrity of the Supreme Court's president, Michael Ramodibedi. The crime of "insult to the authority of justice" is frequently invoked to repress those who dared to criticize them.**

- In Vietnam, on 18th February 2014, blogger and lawyer **Le Quoc Quan** was sentenced to 30 months in prison by Hanoi's appeal Court for a tax fraud. As a famous political opponent, Le Quoc Quan has for years suffered persistent harassment from the Vietnamese Government and it is hard to believe that, after a patently unfair trial, a fiscal crime is punished by such a disproportionate penalty when the victim is a well known critic of the authorities.

This list is far from exhaustive.
Still, these 5 cases provide a clear idea of the abuse and misuse of the judiciary by Governments and of its harmful consequences.

No one questions the need to prosecute all individuals, including news providers, who break the law. But it is essential to ensure their rights are respected by an independent judiciary and a national legislation in line with Article 19 of the UDHR and the ICCPR.

RECOMMENDATION

The Human Rights Council must monitor the question of the independence of the judiciary in the context of Article 19, both through the mandate of the Special Rapporteur on Freedom of expression and that of the Special Rapporteur on the independence of judges and lawyers.